

CHAPTER 31**DEATH OF SURVIVOR ANNUITANT****3101 ARREARS OF ANNUITY**

This chapter refers to the settlement of the arrears of annuity where the annuitant is a spouse with no eligible child annuitant, the last remaining child annuitant, or a natural person with an insurable interest. Arrears of annuity may result from checks not having been negotiated before the annuitant's death or failure of Secretary of the Military Department concerned (or designee) to establish and make payment of an annuity to which entitlement exists. Payment of the arrears of the annuity under RSFPP, SBP, and MIW provision of the SBP law is made in accordance with the law applicable to the estate of the deceased annuitant or settled as described in paragraphs 310302 and 310303, below.

3102 DOCUMENTATION

To settle the arrears of annuity, the listed documentation must be on file:

310201. Copy of death certificate. A notification of death from any source (next of kin, post office, or neighbor) is sufficient to suspend future payment of the annuity.

310202. A written claim over the signature and address of the claimant or of the claimant's authorized agent or attorney.

310203. Evidence (affidavit, court order, or letters testamentary) of authority to act as the executor, administrator, personal representative, or other fiduciary of the deceased annuitant; evidence of an agent or attorney's right to act for the claimant.

310204. Proof of recoupment of outstanding payments. All outstanding checks or direct deposits (not negotiated before the annuitant's death or forwarded past the date of entitlement) or the proceeds thereof must be returned to the DFAS-Denver Center before a settlement of arrears of annuity may be made.

3103 PAYMENT OF THE ARREARS

The annuity is not prorated for the month of annuitant's death. Entitlement stops as of the last day of the month before the date of the annuitant's death. When all documentation is received, payment of the arrears is made to the executor, administrator, fiduciary of the estate, or claimants pursuant to the small estate statutes of the state of domicile of the annuitant, provided the claimant submits the statutorily required proof under the law of that state, together with copies of the state small estate statute.

310301. Any indebtedness resulting from the overpayment of the annuity (for example, overlap of SBP and DIC, payment made beyond date of entitlement or miscalculations)

must be liquidated before arrears of the annuity can be settled. Debts of the member, other than for delinquent costs for RSFPP or SBP, may not be offset against the arrears of the annuity.

310302. If no executor, administrator, or fiduciary has been or will be appointed by the court, or if for any reason the claim is questionable, send such claim to the DFAS Denver Center.

310303. A claim for arrears of annuity must be filed the within the 6-year statute of limitation restriction. However, when the person otherwise entitled to payment has not submitted a claim and cannot be located within 3 years after the death of the annuitant, a claim made by other than the executor, administrator, or fiduciary may be settled by the DFAS Denver Center.

3104 TAXABILITY

The retired pay activity issues one or more TD Forms W-2P (Statement for Recipients of Annuities, Pensions, or Retired Pay) in case of deceased annuitants. If arrears of annuity are not paid, the retired pay activity issues one TD Form W-2P in the decedent's name. If arrears of annuity are paid, an additional TD Form W-2P is issued to each claimant to whom the arrears were paid.